IN THE HIGH COURT OF PUNJAB & HARYANA CHANDIGARH

Criminal Revision No.700 OF 1994
Date of Decision: JULY 17, 2007

BACHAN SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr. Naveen Batra, Advocate for,
Mr.B.R.Mahajan, Advocate,
for the petitioner.
Mr. Anter Singh Brar,DAG Punjab.

A.N.JINDAL, J

Bachan Singh, accused petitioner (hereinafter referred to as the 'petitioner')has assailed the judgment dated 16.09.1994 passed by Additional Sessions Judge, Amritsar dismissing the appeal of the petitioner against the judgment dated 09.05.1994 passed by Judicial Magistrate 1st Class, Amritsar convicting him to undergo RI for six months and to pay a fine of Rs.1000/- under Section 61(1)(a) of the Punjab Excise Act 1914(hereinafter referred to as Act).

The allegations as unfolded by the prosecution in brief are that on 30.09.1989 HC Jagir Singh alongwith other police party was present near the canal in the area of village Chhapa, the accused while carrying a gunny bag on

the pillion seat of his scooter came there. He was apprehended. On search of the gunny bag, a tube containing 70 bottles of illicit liquor was recovered. The ruqa Exhibit PB was sent to the police station on the basis of which FIR Exhibit PB/1 was recorded, investigation was commenced. The investigating officer took the sample of the liquor; recorded the statements of the witnesses; prepared the rough site plan and on receipt of the report of the chemical examiner challan against the accused was presented in the Court.

Charge under Section 61(i)(a) of the Punjab Excise Act was framed against him, was not admitted by him. Ultimately the trial ended in conviction. The appeal preferred by the petitioner was also dismissed.

At the very outset Mr.Naveen Batra, Advocate counsel for the petitioner has not assailed the judgment of conviction passed against the petitioner however, he has stated that the petitioner being the first offender, some leniency on the quantum of sentence be extended to him.

Having deliberated over the matter the petitioner appears to have already suffered a lot on account of the longevity of the trial. The petitioner is the sole bread winner of the family, comprising of five children, wife and aged parents. Mr. Anter Singh Brar, DAG Punjab has not pointed out any such antecedents to deny the benefit of probation to him, consequently, I deem it expedient in the interest of justice to extend him benefit of Section 4(1) of the

Probation of Offenders Act 1958.

In result this revision petition is dismissed with the modification in the sentence and he is ordered to be released on probation under Section 4(1) of the Probation of Offenders Act, 1956 on his executing a bond in the sum of Rs.5000/- with one surety in the like amount to the satisfaction of the Chief Judicial Magistrate Amritsar for a period of one year within which period he shall continue to be of good behaviour and keep peace and in case of breach of conditions of the bond, he will be ready to serve sentence as and when called for.

(A.N.JINDAL)
JUDGE

July 17,2007
Ruchika